

FEB 24 2011

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA C. DUDLEY, CLERK
BY: *[Signature]*
DEPUTY CLERK

DAWN D. RITCHIE,

Plaintiff,

v.

ROBERT G. BOWERS,

Defendant.

Civil Action No. 7:09cv00484

MEMORANDUM OPINION
AND ORDER

By: Samuel G. Wilson
United States District Judge

Defendant, Robert G. Bowers, has moved in *limine* to exclude plaintiff, Dawn D. Ritchie, from presenting a segment of Dr. Susan Cramer's, Ritchie's treating physician, taped deposition testimony concerning the reasonableness of Ritchie's medical bills incurred with other health care providers. At Dr. Cramer's taped deposition, plaintiff's counsel asked Dr. Cramer if she could look over a summary of Ritchie's medical bills from various dates and health care providers and answer whether the bills were "reasonable, necessary and proximately-related to the accident in question." (Def. Mot. Ex. B, at 26.) While a treating physician may "express their opinions of causation and prognosis derived from the ordinary treatment of the patient," without first disclosing them in an expert report, Hall v. Sykes, 164 F.R.D. 46, 48 (E.D. Va. 1995), "[i]f a treating physician intends to testify regarding things which are not based on their observations during the course of treating the patient's illness or injury, they must appropriately disclose those opinions in an expert report." Hare v. Opryland Hospitality, LLC, 2010 U.S. Dist. LEXIS 97777, at *14 (D. Md. Sept. 17, 2010). Although an expert disclosure report was prepared, and later supplemented, concerning Dr. Cramer's opinions of the cause of Ritchie's injuries, neither the original report, nor its supplement, mentions the reasonableness of Ritchie's

medical bills, and there is nothing in the record to show that Dr. Cramer reviewed these bills in the course of treating Ritchie. Therefore, it is **ORDERED** and **ADJUDGED** that Bowers's motion to exclude the segment of Dr. Cramer's taped deposition regarding the reasonableness of Ritchie's medical bills is **GRANTED**.¹

ENTER: February 24, 2011.


UNITED STATES DISTRICT JUDGE

¹ The court will entertain an appropriate motion from Ritchie for leave to supplement Dr. Cramer's expert report and take further testimony from her, via videotape, telephone or in-person, regarding the reasonableness of Ritchie's medical bills.